

THE SPOKESMAN-REVIEW

BOISE BUREAU

Betsy Russell
Reporter

December 12, 2007

Lawrence Wasden
Idaho Attorney General
700 W. State St.
Boise, ID 83720-0010

Dear Attorney General Wasden:

Please consider this letter a complaint against the State Board of Education for violation of the Idaho Open Meeting Law. In my work as a reporter, I have learned that the board, during a nearly four-hour executive session last Thursday, Dec. 6th, in Pocatello, discussed matters that do not fall under the executive session exemptions from the Idaho Open Meeting Law. These included the ending of Idaho Standards Achievement testing for 9th graders throughout the state of Idaho this spring. This is a significant public policy change and also a move designed to save the board's budget more than \$800,000. Other issues regarding the State Board of Education's budget also apparently were discussed in executive session, in violation of the Idaho Open Meeting Law. In addition, board members may have conferred individually in a "serial meeting" between that date and Monday, when the board announced that it was ending ISAT testing of 9th graders in Idaho, effective immediately. No board meeting had occurred between Thursday and Monday.

When I questioned this in the course of my reporting on Tuesday afternoon, the board changed course and suggested that no final decision on the testing issue had been made – despite the announcement of one day earlier and public statements from both the board president and the state superintendent of public instruction commenting on the decision – and that the board might still take the testing issue up again in its January meeting or an as-yet unscheduled special meeting prior to the January meeting.

In the board's agenda for its Dec. 6 meeting, an executive session was listed, but the reasons given for going into executive session were merely "to discuss one or more of the following," followed by a listing of six executive session exemptions allowed under the Open Meeting Law, A through F. The board did not specify under which exemption(s) it

was acting. Also, in its minutes of its Oct. 11, 2007 meeting, the board noted that it held a similar executive session, running from 10 a.m. to 1:30 p.m., at that meeting, and the only information given in its minutes is that, "In executive session, the Board did one or more of the following," followed again by a listing of all six possible exemptions (please see attached). The board did not specify under which of the exemptions it held an executive session, nor the general subject matter addressed.

It appears that the State Board of Education is violating the Idaho Open Meeting Law by not specifying under which exemption it is holding a closed session; by not keeping minutes of executive sessions that include "a specific reference to the statutory subsection authorizing the executive session and sufficient detail to convey the general subject matter;" and by discussing public policy issues including student testing and the board's budget in closed session in violation of 67-2345.

As a reporter, my only interest in filing this complaint is in ensuring compliance with the law in the public interest. Important matters of public policy in our state should be decided in public, as our law requires. It is my hope that investigation and enforcement actions taken as a result of this complaint will result in better future compliance with the law.

Thank you very much.

Sincerely,

Betsy Z. Russell, reporter
On behalf of The Spokesman-Review

Attachments:

- Agenda, State Board of Education meeting, Dec. 6-7, 2007
- Minutes of Oct. 11, 2007 SBOE meeting/executive session
- SBOE bylaws ("All meetings of the Board are conducted and notice thereof provided in accordance with the Idaho Open Meeting Law.")
- Article, The Spokesman-Review, Dec. 12, 2007